REGISTERED NO. M. 4631.

GOVERNMENT OF KERALA

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. II] Trivandrum, Friday, 13th December 1957 [No. 133.

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The reports of Select Committees on the following bills together with bills as revised by Committees.

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT CENTRAL PRESS, TRIVANDRUM, 1957.

THE KERALA LAND CONSERVANCY BILL, 1957

Report of the Select Committee

The Select Committee to which the Kerala Land Conservancy Bill, 1957, was referred, have considered the Bill and present this, their report, with the Bill as reported by the Committee annexed thereto.

2. The Bill was published in the Gazette Extraordinary dated 19th August 1957.

3. The Bill was introduced in the Legislative Assembly on 24th August 1957 and the motion for reference to a Select Committee was adopted on the same day.

4. *Clause 8 (1).*—The Committee consider that the provision empowering the Collector to fix the amount by way of assessment, where rates of assessment are not prescribed by the Government, is unnecessary. The latter part of the sub-clause has therefore been omitted.

5. *Clause 10.*—The Committee are of the view that the liability and punishment provided for in this clause are not adequate and that more deterrent punishment is necessary to check the unauthorised destruction and appropriation of trees belonging to the Government. Suitable modifications in this regard have been made by the Committee.

Trivandrum,
26th September 1957.

K. R. Gouri
Chairman of the Select Committee.

THE KERALA LAND CONSERVANCY BILL, 1957

(As reported by the Select Committee)

A Bill to check the unauthorised occupation of Government lands.

Preamble.—WHEREAS it is necessary to enact a uniform law for checking the unauthorised occupation of Government lands;

BE it enacted in the Eighth Year of the Republic of India as follows:—

1. *Short title, extent and commencement.*—(1) This Act may be called the Kerala Land Conservancy Act, 1957.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force at once.

2. *Repeal.*—The Travancore-Cochin Land Conservancy Act, 1951, and the Madras Land Encroachment Act, 1905, as in force in the Malabar District referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956 (Central Act 37 of 1956), are hereby repealed.

3. *Property of Government defined.*—(1) All public roads, streets, lanes and paths, the bridges, ditches, dykes and fences on or beside the same, the bed of the sea and of harbours and creeks below high water mark, the beds and banks of rivers, streams, irrigation and drainage channels, canals, tanks, lakes, backwaters and water courses, and all standing and flowing water, and all lands wheresoever situated, save in so far as the same are the property of—

(a) Jenmies or holders of Inams; or

(b) holders of lands in any way subject to the payment of land revenue to the Government; or

(c) any other registered holder of land in proprietary right; or

(d) any person holding land under grant from the Government otherwise than by way of a licence; or

(e) any person claiming through or holding under any of the persons referred to in clauses (a), (b), (c) or (d);

are, and are hereby declared to be, the property of Government, except as may be otherwise provided by any law for the time being in force, subject to all rights of way and other public rights and to the natural and easement rights of other land owners and to all customary rights legally subsisting.

GCPT.

Explanation I.—Lands once registered in the name of a person but subsequently abandoned or relinquished, and all lands held by right of escheat, purchase, resumption, reversion or acquisition under the Land Acquisition Act for the time being in force, are the property of Government within the meaning of this section.

Explanation II.—In this section, the expression 'high-water mark' means the highest point reached by the ordinary spring tide at any season of the year.

Explanation III.—Where, in regard to roads, lanes and canals, survey stones had been, in the original demarcation under the Survey Act in force, planted for the sake of convenience and safety inside compound walls and gates of compounds, in house verandhas, door steps, porticoes, masonry drains and similar structures of a permanent nature, such walls, gates, verandhas, etc., shall not be deemed to be the property of Government within the meaning of this section.

(2) All unassessed lands within the limits of private estates used or reserved for public purposes or for the communal use of villagers, and all public roads and streets vested in any local authority shall, for the purpose of this Act, be deemed to be the property of Government.

4. (1) *"Poramboke" defined.*—'Poramboke' shall mean and include unassessed lands which are the property of Government under Section 3 (1) or (2) used or reserved for public purposes or for the communal use of villagers, such as—

(a) all public roads, streets, lanes, pathways, the bridges, ditches, dykes and fences on or beside the same;

(b) the beds and banks of rivers, irrigation and drainage channels, traffic canals, tanks, lakes, back-waters and water courses;

(c) markets, burial grounds, landing ghauts; and

(d) all other property which the Government may, for the purpose of this Act, from time to time, declare to be Poramboke;

(2) *"Occupant" defined.*—"Occupant" shall mean a person actually in possession or occupation of a land which is the property of Government.

5. *Land which is the property of Government not to be occupied without permission.*—From and after the commencement of this Act, it shall not be lawful for any person to occupy a land which is the property of Government whether a poramboke or not without permission from the Government or such officer of the Government as may be empowered in this behalf.

6. *Earth, metal, laterite, lime-shell etc., not to be removed from land which is property of Government without permit.*—(1) It shall not be lawful for any person to destroy, remove or appropriate for himself earth, metal, laterite, lime-shell or such other articles of value as may be notified by the Government from any land which is the property of Government, whether a poramboke or not, except under and in accordance with the terms and conditions of a permit issued by the Government or such officer of Government as may be empowered in that behalf and on payment of compensation at the rate prescribed under sub-section (2).

(2) The Government may, from time to time, by notification in the Gazette, prescribe the rate at which compensation shall be payable for earth, metal, laterite, lime-shell or other notified articles of value destroyed, removed or appropriated from land which is the property of Government.

(3) Whoever unauthorisedly destroys, removes or appropriates for himself earth, metal, laterite, lime-shell or other notified articles of value from any land which is the property of Government, whether a poramboke or not, shall be liable to pay such fine not exceeding fifty rupees as may be imposed by the Collector and shall also be liable to pay by way of damages an amount equivalent to the compensation which would have been payable if sub-section (2) were applicable thereto.

(4) The Government may remit in whole or in part the compensation or damages payable under this section,—

(a) in favour of any agriculturist, if the earth, metal, laterite, lime-shell or other notified article of value destroyed, removed or appropriated is for *bona fide* agricultural purposes, or

(b) in favour of a co-operative society.

7. *Punishment for unauthorisedly occupying a land which is the property of Government.*—Whoever occupies a land which is the property of Government whether a poramboke or not contrary to section 5 shall be liable to pay such fine not exceeding two hundred rupees as may be imposed by the Collector.

Explanation.—A tenant unauthorisedly holding over after the expiry of his term of lease is liable to a fine within the meaning of this section.

8. (1) *Levy of assessment on lands which are the property of Government unauthorisedly occupied.*— Any person unauthorisedly occupying a land which is the property of Government other than a poramboke and liable to pay a fine under section 7 shall, in addition, be liable to pay by way of assessment for the whole period of his occupation such amount as may be fixed by the Collector in accordance with

the rate that may be prescribed by the Government from time to time in this behalf.

(2) *Levy of prohibitory assessment on Poramboke unauthorisedly occupied.*—Any person unauthorisedly occupying a poramboke and liable to pay a fine under section 7 shall, in addition, be liable to pay such prohibitory assessment for the whole period of occupation as may be imposed by the Collector.

Payment of assessment under sub-section (1) or prohibitory assessment under sub-section (2) shall not confer any right of occupancy, and the liability to pay such assessment shall cease from the date on which the land concerned is relinquished.

9. *Liability for unauthorised occupation.*— Any person unauthorisedly occupying any land which is the property of Government whether a poramboke or not and liable to a fine under section 7 shall, in addition to the assessment or prohibitory assessment to which he may be liable under section 8, be liable for the value, as adjudged by the Collector, of any useful tree destroyed or appropriated by him.

10. *Penalty for destruction or appropriation of trees.*—Any person who destroys or appropriates any useful tree belonging to the Government shall be liable for damages not exceeding three times the value of the tree as adjudged by the Collector, and shall also be liable on conviction by a magistrate to be punished with imprisonment for a term extending to six months or with fine not exceeding five hundred rupees, or with both.

11. (1) *Liability of unauthorised occupant to summary eviction, forfeiture of crops, etc.*—Any person unauthorisedly occupying any land for which he is liable to pay a fine under section 7 and an assessment or prohibitory assessment under section 8 may be summarily evicted by the Collector, and any crop or other product raised on the land shall be liable to forfeiture, and any building or structure erected or anything deposited thereon shall also, if not removed by him after such written notice as the Collector may deem reasonable, be liable to forfeiture. Forfeiture under this section shall be adjudged by the Collector and any property so forfeited shall be disposed of as the Collector may direct.

(2) *Mode of eviction.*—An eviction under this section shall be made in the following manner, namely:—

By serving a notice on a person reputed to be in occupation or his agent requiring him within such time as the Collector may deem reasonable after receipt of the said notice to vacate the land, and if such notice is not obeyed, by removing or deputing a subordinate to remove any person who may refuse to vacate the same, and, if the officer removing any such

person shall be resisted or obstructed by any person, the Collector shall hold a summary enquiry into the facts of the case, and if satisfied that the resistance or obstruction still continues, may issue a warrant for the arrest of the said person, and on his appearance may send him with a warrant in the form of the Schedule for imprisonment in the Civil Jail of the District for such period not exceeding 30 days as may be necessary to prevent the continuance of such obstruction or resistance:

Provided that no person so committed or imprisoned under this section shall be liable to be prosecuted under sections 183, 186 and 188 of the Indian Penal Code in respect of the same facts.

12. *Prior notice to occupant, etc.*—The Collector shall, before passing an order under this Act, give notice to the occupant or other person likely to be affected by the order, and record any statement which such occupant or person may make and any evidence which he may adduce within a reasonable time; and all orders passed by the Collector under this Act shall be in writing and under his hand.

The Collector may require any subordinate officer not below the rank of a Deputy Tahsildar to hold the enquiry as prescribed in Paragraph 1 of this section and submit the record to him. On such record the Collector may pass orders.

For the purpose of section 199 of the Indian Penal Code the proceedings taken by the Collector under this section shall be deemed to be judicial proceedings.

13. *Power to make rules.*—The Government may make rules or orders, either generally or in any particular instance,—

(a) regulating the rates of assessment under section 8 (1);

(b) regulating the imposition of prohibitory assessment under section 8 (2);

(c) declaring that any particular land or class of lands shall not be open to occupation;

(d) regulating the service of notices under this Act;

(e) regulating the manner in which the powers of the Collector under this Act may be exercised; and

(f) generally to carry out the provisions of this Act.

Such general rules or orders shall be made only after previous publication in the Gazette.

14. *Recovery of fines, assessment, etc., as arrears of land revenue.*—All fines, assessments, and prohibitory assessments, value of trees destroyed or appropriated, compensation or damages payable under section 6 and all costs of eviction and removal of encroachments shall be recovered as arrears of land revenue under the provisions of the Revenue Recovery Act for the time being in force.

15. *Officers to exercise Powers of Collector.*—The Government may, by notification in the Gazette, authorise any officer by name or by virtue of his office to exercise all or any of the powers conferred on a Collector under this Act.

16. *Appeal and revision.*—(1) The Government may, by notification in the Gazette, direct that an appeal from the decision or order of any officer empowered under section 15 shall lie to the Collector.

(2) No order shall be passed in appeal without previous notice to the party to be affected by such order.

(3) There shall be no appeal against the decision or order passed in appeal by the Collector.

(4) It shall be lawful for the Board of Revenue to revise any decision or order passed by any officer subordinate to the Board of Revenue under this Act:

Provided that no order setting aside or modifying any such decision or order shall be passed without giving previous notice to the party to be affected thereby.

(5) Pending disposal of any appeal or revision petition under this Act, the appellate authority or the revisional authority, as the case may be, may suspend the execution of the order appealed or petitioned against.

17. *Limitation of appeal.*—No appeal shall be brought after the expiration of 60 days from the date of the decision or order complained of, provided that, in computing the period of 60 days, the time required to obtain a copy of the decision or order appealed against shall be excluded, but the appeal may be admitted after the period hereby prescribed when the appellant satisfies the authority to whom he appeals that he had sufficient cause for not preferring the appeal within the period prescribed.

18. *Petition of appeal to be accompanied by the order appealed against.*—Every petition of appeal under this Act shall be accompanied by the decision or order appealed against or by an authenticated copy of the same.

19. *Saving of operation of other laws in force.*—Nothing contained in this Act shall be construed as exempting any person unauthorisedly occupying land from liability to be proceeded against under any other law for the time being in force:

Provided that, if any penalty has been levied under section 7 or section 8 of this Act, no similar penalty shall be levied from him under any other law in respect of such occupation.

20. *Saving of suits by persons aggrieved by proceedings under this Act.*—No suit against the Government shall be entertained in any Civil Court in respect of any order passed

under this Act except upon the ground that the land in respect of which such order has been passed is not a land which is the property of Government whether a poramboke or not:

Provided that Civil Courts shall not take cognizance of any such suit unless it shall be instituted within one year from the date on which the cause of action arose.

SCHEDULE.

Form of warrant to be issued by the Collector under section 11.

SEAL.

To

The Officer in charge of the Civil Jail at

Whereas A. B. of has resisted or obstructed C. D. in removing E. F. (or himself, that is, the said A. B.) from certain land in the village of in the taluk, and whereas it is necessary, in order to prevent the continuance of such obstruction or resistance, to commit the said A. B. to close custody, you are hereby required under the provisions of section 11 of the Kerala Land Conservancy Act, 1957 to receive the said A. B. into the Jail under your charge and there to keep him in safe custody for days.

Dated this day of

(Signature of Collector.)

V. KRISHNAMOORTHI,
Secretary,
Legislative Assembly.

THE KERALA COMPENSATION FOR TENANTS IMPROVEMENTS BILL, 1957.

(Report of the Select Committee)

The Select Committee to which the Kerala Compensation for Tenants Improvements Bill was referred have considered the Bill clause by clause and now submit this, their report with the Bill as reported by the Committee annexed thereto.

2. The Bill was published in the Gazette Extraordinary dated 21st August 1957.

3. The Bill was introduced in the Legislative Assembly on 24th August 1957 and the motion for reference to a Select Committee was adopted on 27th August 1957.

4. *Clause 4*: The Committee consider that it should be made clear that the provisions of this clause will not apply to tenants holding lands under the Government. The clause has been suitably modified for this purpose.

5. *Clause 7*: The Committee think that it should be made clear that the award of compensation for improvements of the nature of embankments, reclamation and other similar works will not be governed by the provisions of clause 7. Accordingly the Committee have added a new sub-clause for the purpose.

6. *Clause 13*: The Committee are of the view that the Government should have power to prepare tables showing the cost of planting, protecting and maintaining such other trees also which the Government may notify from time to time besides those included in the clause. The clause has been modified accordingly.

7. *Clause 17*: Under the proviso to this clause, contracts entered into on or after the commencement of the Act taking away or limiting the rights of tenant to make improvements in the nature of buildings or to claim value of improvements therefor will prevail. Under the Travancore-Cochin Compensation for Tenants Improvements Act, 1956, which came into force on 31-10-1956 there was a similar provision. The Committee consider that so far as the Travancore-Cochin portion of the State is concerned the proviso should apply to contracts entered into at any time after the commencement of the Travancore-Cochin Compensation for Tenants Improvements Act, 1956. The proviso has been redrafted for this purpose.

8. The other amendments are only consequential.

Trivandrum,
8th October 1957.

K. R. Gouri,
Chairman of the Select Committee.

THE KERALA COMPENSATION FOR TENANTS IMPROVEMENTS BILL, 1957.

Minutes of Dissent.

In fixing compensation for any improvement, three main factors have to be taken into consideration. One is the increase in the value of annual net produce, the second is the probable duration of its effects and the third, the labour and capital required for making such improvements. The principle of awarding compensation at three fourths of twenty times of the increase in value of the annual net produce, uniformly for all kinds of improvements, irrespective of all other considerations, is highly arbitrary, unscientific and absurd. While it unduly favours certain class of tenants, it does great injustice to certain other classes. The present Bill copies the provisions of the Malabar Compensation for Tenants Improvements Act in all other material aspects except in the matter of fixing the method of compensation. The principle adopted in the Malabar Act is based on the present value of the annuity and it has worked justly and satisfactorily for over half a century. To accept that principle is the only way to end the anamoly contained in this Bill.

M. NARAYANA KURUP,
Member, Select Committee.

THE KERALA COMPENSATION FOR TENANTS IMPROVEMENTS BILL, 1957

(As reported by the Select Committee)

A Bill to make provision for payment of Compensation for improvements made by tenants in the State of Kerala.

Preamble.—WHEREAS it is necessary to make provision for the payment of compensation for improvements made by tenants in the State of Kerala;

BE it enacted in the Eighth Year of the Republic of India as follows:—

1. *Short title, extent and commencement.*—(1) This Act may be called the Kerala Compensation for Tenants Improvements Act, 1957.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force at once.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) "eviction" means the recovery of possession of land from a tenant;

(b) "improvement" means any work or product of a work which adds to the value of the holding, is suitable to it and consistent with the purpose for which the holding is let, mortgaged or occupied, but does not include such clearances, embankments, levellings, enclosures, temporary wells and water-channels as are made by the tenant in the ordinary course of cultivation and without any special expenditure or any other benefit accruing to land from the ordinary operations of husbandry;

(c) "State" means the State of Kerala;

(d) "tenant" with its grammatical variations and cognate expressions includes—

(i) a person who, as lessee, sub-lessee, mortgagee or sub-mortgagee or in good faith believing himself to be lessee, sub-lessee, mortgagee, or sub-mortgagee of land, is in possession thereof;

(ii) a person who with the bona fide intention of attorning and paying a reasonable rent to the person entitled to cultivate or let waste-land, but without the permission of such person, brings such land under cultivation and is in occupation thereof as cultivator; or

(iii) a person who comes into possession of land belonging to another person and makes improvements thereon in the bona fide belief that he is entitled to make such improvements.

3. *What are presumed to be improvements.*—Until the contrary is shown, the following works or the products of such works shall be presumed to be improvements for the purposes of this Act:—

(a) the erection of dwelling houses, buildings appurtenant thereto and farm buildings;

(b) the construction of tanks, wells, channels, dams and other works for the storage or supply of water for agricultural or domestic purposes;

(c) the preparation of land for irrigation;

(d) the conversion of one-crop into two-crop land;

(e) the drainage, reclamation from rivers or other waters or protection from floods or from erosion or other damage by water, of land used for agricultural purposes, or of waste land which is culturable;

(f) the reclamation, clearance, enclosure or permanent improvement of land for agricultural purposes;

(g) the renewal or reconstruction of any of the foregoing works or alterations therein or additions thereto; and

(h) the planting or protection and maintenance of fruit trees, timber trees and other useful trees and plants.

4. *Tenant entitled to compensation for improvements.*—(1) Every tenant shall, on eviction, be entitled to compensation for improvements which were made by him, his predecessor-in-interest or by any person not in occupation at the time of the eviction who derived title from either of them and for which compensation had not already been paid; and every tenant to whom compensation is so due shall, notwithstanding the determination of the tenancy or the payment or tender of the mortgage money or premium, if any, be entitled to remain in possession until eviction in execution of a decree or order of court:

Provided that nothing herein contained shall be construed as affecting the provisions of the Travancore-Cochin Land Conservancy Act, 1951 or the Madras Land Encroachment Act, 1905:

Provided further that this section shall not apply to tenants holding lands under the Government.

(2) A tenant so continuing in possession shall, during such continuance, hold, as a tenant subject to the terms of his lease or mortgage, if any.

5. *Decree in eviction to be conditional on payment of compensation.*—(1) In a suit for eviction instituted against a tenant in which the plaintiff succeeds and the defendant establishes a claim for compensation due under section 4 for improvements, the court shall ascertain as provided in sections 7 to 16, the amount of the compensation and shall pass a decree declaring the amount so found due and ordering that on payment by the plaintiff into the court of the amount so found due and also the mortgage money or the premium, as the case may be, the defendant shall put the plaintiff into possession of the land with the improvements thereon.

(2) If in such suit the court finds any sum of money due by the defendant to the plaintiff for rent, or otherwise in respect of the tenancy, the court shall set off such sum against the sum found due under sub-section (1), and shall pass a decree declaring as the amount payable to him on eviction the amount, if any, remaining due to the defendant after such set-off :

Provided that the court shall not set off any sum of money due for rent as aforesaid, if such sum is not legally recoverable.

(3) The amount of compensation for improvements made subsequent to the date up to which compensation for improvements has been adjudged in the decree and the re-valuation of an improvement, for which compensation has been so adjudged, when and in so far as such re-valuation may be necessary with reference to the condition of such improvement at the time of eviction as well as any sum of money accruing due to the plaintiff subsequent to the said date for rent, or otherwise in respect of the tenancy, shall be determined by order of the court executing the decree and the decree shall be varied in accordance with such order.

(4) Every matter arising under sub-section (3) shall be deemed to be a question relating to the execution of a decree within the meaning of sub-section (1) of section 47 of the Code of Civil Procedure, 1908.

6. *Tenant's right to remove buildings, works or trees deemed not improvements.*—Whenever a court passes a decree or order for eviction against a tenant and such tenant has erected any building, constructed any work or planted any tree which the court finds is not an improvement for which compensation can be claimed, but which the court finds can be removed without substantial injury to the holding, such tenant may remove such building, work or tree within a time to be fixed by the court in its decree or order and the court may, from time to time extend the time so fixed.

7. (1) *Improvement producing an increase in the value of the annual net produce.*—When the improvement is not an improvement to which section 11 applies and has caused an increase in the value of the annual net produce of the holding, the court shall determine, as nearly as may be, the average net money value of such increase and shall award as compensation for the improvement three-fourths of the amount arrived at by capitalising such net money value at 20 times.

Explanation 1.—The value of the net produce means the amount remaining after deducting from the value of the gross produce the cost of cultivation and the Government assessment and local taxes.

Explanation 2.—In determining the net money value of the increase, regard shall also be had to the condition of the improvement and probable duration of its effects and the labour and capital required for making such improvement.

(2) Nothing in sub-section (1) shall apply to improvements of the nature of embankments, reclamation and other similar works.

8. *Trees or plants spontaneously grown.*—When the improvement is not an improvement to which sub-section (1) of section 7 applies but consists of timber trees or of other useful trees or plants spontaneously grown during the period of the tenancy or sown or planted by any of the persons mentioned in section 4, the compensation to be awarded shall be three-fourths of the sum which the trees or plants might reasonably be expected to realise if sold by public auction to be cut and carried away.

9. *Other kinds of improvements.*—When the improvement is not an improvement to which sub-section (1) of section 7 or section 8 applies, the compensation to be awarded shall be the cost of the labour including supervision thereof and of the materials together with other expenditure, if any, which would, at the time of the valuation, be required to make the improvement, less a reasonable deduction on account of the deterioration, if any, which may have taken place from age or other cause.

10. *Value of improvement to be ascertained in the way most favourable to the tenant.*—Notwithstanding anything contained in sections 7, 8 and 9, the amount of compensation to be awarded for an improvement shall be ascertained in the way prescribed by any of the said sections which is most favourable to the tenant.

Illustrations.—(a) The compensation to be awarded for a jack tree as a fruit tree is ascertained under section 7 to be Rs. 7, but for the same tree as a timber tree it is ascertained under section 8 to be Rs. 10.

(b) The compensation to be awarded for an immature casuarina plantation is ascertained under section 8 to be Rs. 20, but under section 9 to be Rs. 100.

In each case the court shall award the higher amount.

11. *Improvement consisting in protection and maintenance of trees and plants.*—When the improvement consists in the protection and maintenance of timber or fruit trees or of other useful trees or plants not sown or planted by any of the persons mentioned in section 4, or of such trees or plants spontaneously grown prior to the commencement of the tenancy, the compensation to be awarded shall be the proper cost of such protection and maintenance ascertained as provided in section 9.

12. *Power to frame tables of maximum and minimum rates of compensation.*—The Government may prepare for the whole or any part of the State tables showing the maximum and minimum rates of compensation to be awarded under this Act for all or any class of improvements and when such tables have

been published, the amount awarded as compensation under sections 7, 8, 9 and 10 shall not ordinarily exceed such maximum rates nor shall it in any case be less than such minimum rates.

13. *Power to prepare tables of prices of produce, etc*.—(1) For the purpose of determining the amount of compensation to be awarded under this Act, the Government may prepare tables for the whole or any part of the State showing all or any of the following matters :—

(a) the price of cocoanuts, arecanuts, pepper and paddy ;

(b) the cost of—

(i) cultivating and harvesting a crop of paddy ;

(ii) planting, protecting and maintaining a cocoanut tree, an arecanut tree, a jack tree, a mango tree such other tree as may be notified by the Government from time to time and a pepper vine, until the tree or vine is in bearing ;

(iii) protecting and maintaining a cocoanut tree, an arecanut tree, a jack tree, a mango tree such other tree as may be notified by the Government from time to time and a pepper vine for one year when in bearing.

(2) The tables prepared under this section shall on publication be receivable in evidence and the rates and amounts therein specified shall be presumed to be the proper rates and amounts until the contrary is proved :

Provided that, in so far as such tables prescribe prices of products, the presumption shall not be rebuttable except by proof of the average price as provided in section 14.

14. *Values how ascertained when no table has been prepared or the presumption is rebutted*.—In respect of any product for which no table showing the price has been published and whenever the presumption under section 13 is rebutted, the court shall adopt, as the money value for the purpose of awarding compensation under sub-section (1) of section 7, the average price, as nearly as may be ascertainable in the taluk where the land is situated, for a period of 10 years immediately preceding the institution of the suit.

15. *Tables to be published*.—The tables prepared under this Act shall be published in English and in Malayalam in the Gazette and shall be kept publicly posted in the civil courts having jurisdiction over the area to which the tables apply.

The Government may, by like publication, cancel or vary, from time to time, the tables so published.

16. *Compensation when area is overplanted*.—When trees are planted in excess of the following scale, the court, if satisfied that, in the circumstances of the particular case, the land is

overplanted, may, notwithstanding anything hereinbefore contained, either refuse to grant any compensation or may grant compensation at a lower rate, for so many of the trees as are in excess of the scale and are immature:—

Cocoanut trees	100 per acre.
Arecanut trees	720 per acre.
Jack trees	60 per acre.

In the case of a mixed garden, each tree shall be allowed a proportionate fraction of an acre according to the above scale.

17. *Contracts affecting tenant's right to make improvements*—Nothing in any contract entered into whether before or after the commencement of this Act shall take away or limit the right of a tenant to make improvements and to claim compensation for them in accordance with the provisions of this Act:

Provided that this section—

(i) in its application to the Malabar district referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956, shall not operate against any contract entered into after the commencement of this Act whereby the tenant's right to make improvements in the nature of buildings or to claim value of improvements therefor has been taken away or limited; and

(ii) in its application to the remaining part of the State shall not operate against any contract entered into on or after the 31st October 1956, whereby the tenant's right to make improvements in the nature of buildings or to claim value of improvements therefore has been taken away or limited.

18. *Repeal.*—The Travancore-Cochin Compensation for Tenants Improvements Act, 1956 and the Malabar Compensation for Tenants Improvements Act, 1899, are hereby repealed.

V. KRISHNAMOORTHI,
Secretary,
Legislative Assembly.

THE KERALA HIGH COURT BILL, 1957

Report of the Select Committee.

The Select Committee to which the Kerala High Court Bill was referred have considered the Bill clause by clause and submit this, their Report, with the Bill as reported by the Committee annexed thereto.

2. The Bill was published in the Gazette Extraordinary dated 22nd July 1957.

3. The Bill was introduced in the Legislative Assembly on 24th August 1957 and the motion for reference to a Select Committee was adopted on the same day.

4. *Clause 5.*—The Committee consider that a single judge should be given power to hear and dispose of also appeals from original decrees or orders where the amount or value of the subject-matter of the suit does not exceed 10,000 rupees. The Committee has therefore inserted a new clause for the purpose as clause 5 (13) (b).

5. *Clause 12.*—The Committee consider that the holidays now allotted for Onam and Christmas should be redistributed for Onam, Christmas and Ramzan. The Committee also consider that a provision should be made to the effect that the High Court should sit for not less than 210 days in a year and that the adjournment of the High Court should be with the sanction of the Government. Suitable modifications for the above purposes have been made in the clause.

6. *Clause 13.*—The Committee are of the view that there need be no restriction that the High Court should not sit on Saturdays. The Committee has therefore omitted this clause.

7. The other changes made in the Bill are only verbal or consequential.

Trivandrum,
24th October 1957.

V. R. KRISHNA IYER,
Chairman of the Select Committee.

THE KERALA HIGH COURT BILL, 1957.

As reported by the Select Committee.

A Bill to make provision regulating the business and the exercise of the powers of the High Court of the State of Kerala.

Preamble.—WHEREAS it is expedient to make provision regulating the business and the exercise of the powers of the High Court of the State of Kerala;

BE it enacted in the Eighth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala High Court Act, 1957.

(2) It shall come into force on such date as the State Government may, by notification in the Gazette, appoint.

2. *Definition.*—In this Act, "High Court" means the High Court of the State of Kerala.

3. *Administrative control of the High Court.*—The administrative control of the High Court shall vest in the Chief Justice.

4. *Regulation of business in the High Court.*—The conduct of business in the High Court, including the constitution of Benches and the posting of cases shall, subject to the other provisions of this Act, be regulated by the Chief Justice.

5. *Powers of Single Judge.*—The powers of the High Court in relation to the following matters may be exercised by a Single Judge, provided that the Judge before whom the matter is posted for hearing may adjourn it for being heard and determined by a Bench of two Judges:—

(1) Determining in which of several courts having jurisdiction a suit shall be heard.

(2) Admission of an appeal *in forma pauperis.*

(3) Exercise of original jurisdiction under any law for the time being in force.

(4) Exercise of the powers under section 115 of the Code of Civil Procedure, 1908 and under section 22 of the Kerala Small Cause Courts Act, 1957.

(5) Any matter of an interlocutory character in appeals and other proceedings.

(6) Admission of an appeal presented after the expiry of the period allowed by the law of limitation.

(7) Admission of an appeal from the judgment or order of any criminal court.

(8) Exercise of the power to revise the proceedings of any criminal court:

Provided that in the exercise of such power a Single Judge shall not impose a sentence of death or imprisonment for life.

(9) Exercise of the powers conferred by sections 426 and 498 of the Code of Criminal Procedure, 1898.

(10) Exercise of the powers under—

(i) section 24 of the Code of Civil Procedure, 1908;

(ii) section 526 and section 526A of the Code of Criminal Procedure, 1898; and

(iii) clause (1) of article 226 of the Constitution of India except where such power relates to the issue of a writ of the nature of *habeas corpus;*

(iv) articles 227 and 228 of the Constitution of India.

(11) Exercise of the power under sub-section (2) of section 19 of the Kerala Civil Courts Act, 1957.

(12) A report under section 438 of the Code of Criminal Procedure, 1898.

(13) An appeal—

(a) from a judgment or order of a criminal court, except in cases in which the appellant or a person tried with him has been sentenced to death or imprisonment for life:

Provided that in the exercise of such power a Single Judge shall not impose a sentence of death or imprisonment for life;

(b) from an original decree or order, where the amount or value of the subject-matter of the suit does not exceed ten thousand rupees;

(c) from an original decree when such appeal relates to costs only;

(d) from an order under section 104 of the Code of Civil Procedure, 1908, except an order of the kind mentioned in clause (h) of sub-section (1) of the said section or in clauses (c), (d) or (j) of Rule 1 of Order XLIII of the First Schedule to the said Code;

(e) from an appellate decree or order;

(f) under section 75 (3) of the Cochin Insolvency Act, VII of 1098 or section 77 (1) of the Travancore Insolvency Act, 1108 (VIII of 1108) or section 79 (3) of the Travancore-Cochin Insolvency Act, 1955 or section 75 (3) of the Provincial Insolvency Act, 1920 (V of 1920);

(g) under section 476B of the Code of Criminal procedure, 1898.

6. *Powers of a Bench of two Judges.*—The powers of the High Court in relation to the following matters may be exercised by a Bench of two Judges, provided that if both Judges

agree that the decision involves a question of law they may order that the matter or question of law be referred to a Full Bench:—

(1) Any matter in respect of which the powers of the High Court can be exercised by a Single Judge.

(2) An appeal—

(a) from a decree or order of a civil court, except those coming under section 5;

(b) from the judgment of a criminal court in which a sentence of death or imprisonment for life has been passed on the appellant or on a person tried with him.

(3) A reference:—

(a) under section 113 of the Code of Civil Procedure, 1908;

(b) under section 307, section 374 or section 432 of the Code of Criminal Procedure, 1898;

(4) An application under Order XLV, Rule 2, of the First Schedule of the Code of Civil Procedure, 1908.

(5) An application for the exercise of the powers conferred by section 491 of the Code of Criminal Procedure, 1898 or by clause (1) of article 226 of the Constitution of India where such power relates to the issue of a writ of the nature of *habeas corpus*.

(6) An appeal from any original judgment, order or decree passed by a Single Judge.

(7) All matters not expressly provided for in this Act or in any other law for the time being in force.

7. *Appeal from judgment or order of Single Judge.*— An appeal shall lie to a Bench of two Judges from a judgment or order of a Single Judge in the exercise of original jurisdiction. An appeal shall lie to a Bench of two Judges from a judgment of a Single Judge in the exercise of appellate jurisdiction in respect of a decree or order made in the exercise of appellate jurisdiction by a subordinate court, where the Judge who passed the judgment declares that the case is a fit one for appeal.

8. *Constitution of Full Bench.*—A Full Bench of the High Court shall consist of an uneven number of Judges not less than three.

9. *Cases to be heard by Full Bench under direction by Chief Justice.*—Notwithstanding anything contained in this Act, the Chief Justice may direct that any matter be heard by a Full Bench.

10. *Procedure on reference to Full Bench.*—When a question of law is referred to a Full Bench, the Full Bench may finally decide the case or return it with an expression of its opinion

upon the question referred for final adjudication by the Bench which referred the question or, in the absence of either or both of the referring Judges, by another Bench.

11. *Powers of Vacation Judge.*—(1) During the adjournments of the High Court under section 12 the Chief Justice shall nominate a Single Judge of the High Court for the hearing of all matters which require to be immediately or promptly dealt with and such Judge shall have all the powers of the High Court, except in cases in which such power must be exercised under the provisions of any law by more than one Judge.

(2) It shall be competent for the Chief Justice during any such adjournment of the High Court to constitute a Bench of two Judges or a Full Bench for the hearing of any case.

12. *Adjournment of the High Court.*—(1) With the sanction of the Government, the High Court may adjourn for a period not exceeding sixty days for summer, six days for Onam, eight days for Christmas and four days for Ramzan respectively in each year:

Provided that the High Court shall sit for not less than 210 days in a year.

(2) The dates of commencement and termination of each adjournment shall be notified in the Gazette.

* * * * * * * *

13. *Power to make rules.*—The High Court shall have power to make rules not inconsistent with this Act or any other law for the time being in force to regulate the practice and procedure in the High Court. Such rules shall be published in the Gazette.

14. *Repeal.*—The Travancore-Cochin High Court Act, 1125 (V of 1125) is hereby repealed.

V. KRISHNAMOORTHI,
Secretary,
Legislative Assembly.

STHANAM PROPERTIES (ASSUMPTION OF TEMPORARY MANAGEMENT AND CONTROL) AND HINDU SUCCESSION (AMENDMENT) BILL, 1957.

(Report of the Select Committee.)

The Select Committee to which the Sthanam Properties (Assumption of Temporary Management and Control) and Hindu Succession (Amendment) Bill, 1957 was referred have considered the Bill clause by clause and now submit this, their Report with the Bill as reported by the Committee annexed thereto.

2. The Bill was published in the Gazette Extraordinary dated 30th August 1957.

3. The Bill was introduced in the Legislative Assembly on 2nd September 1957 and the motion for reference to a select committee was adopted on the same day.

4. *Clause 2.* The Committee decided to include a definition of the term "prescribed" since some of the clauses in the Bill require certain matters to be prescribed.

5. *Clause 4.* The Committee considered that the provision in the Bill that the application for assumption of management should be made by one third of the adult members of the family and heirs of Sthanamdar may work hardship in case of Sthanams which may consist of a large number of members. It is considered that application for assumption of management may be made by one fifth of the adult members and heirs or ten adult members thereof whichever is less. The clause has been modified accordingly.

6. *Clause 5.* The Committee considered that outer limit of ten years provided for the continuance of management by the Collector is too much and reduced it to five years. The Committee considered that the provision in the Bill for making such further orders in connection with assumption of management is superfluous and decided to delete the words "and make such further orders as appear to them to be necessary or expedient in connection with such assumption". The clause has been modified accordingly.

7. *Clause 7.* The Committee wanted to make it clear that the Collector shall not have powers for taking possession of Sthanam properties if such taking possession of properties will be in derogation of the provisions of any other law. Therefore the words "subject to the provision of any other laws in force for the time being" were added at the beginning of that clause.

8. *Clause 8.* The Committee considered it better to specify that the Collector is to use force when necessary only in cases where he has to take possession of buildings and other movables belonging to the Sthanam. So the words "such property" have been substituted by "buildings or other movables belonging to the Sthanamdar",

9. *Clause* 9. (a) Sub-clause (2) (f). The Committee considered that provision should be made that the Collector has to come to the conclusion that property is concealed or kept in a building after conducting an inquiry as he deems fit and then only he is to conduct the search. The words "after such inquiry as he deems fit to make" have been inserted with this object in view. Sub-clause (2) (f) has been suitably modified.

(b) Sub-clause (2) (j). The Committee considered that for the words "for repayment of any debt due" the words "for the discharge of any liabilities" may be substituted so that powers of the Collector may be more comprehensive so that he can pay off all liabilities of the Sthanam.

(c) Sub-clause (2) (k). The Committee thought it necessary to make a provision for enabling the Collector to make interim payments to any member or heir entitled to a share of the Sthanam property, if any such member or heir makes a request for such payment at a rate not exceeding Rs. 100 per mensem, which payments are to be adjusted against the share of such member or heir. Sub-clause (2) (k) has been suitably modified for this purpose.

(d) Sub-clause (2) (l). The Committee considered that the investment of money by the Collector should be only in those securities specified in Section 20 of the Indian Trust Act. Suitable modifications have been made.

10. *Clause 12.* The Committee considered that the Collector has to be impleaded not only in suits, appeals or application, but also in other proceedings. Accordingly the words "other proceedings" have been inserted in appropriate places and the clause modified.

11. *Clause 13.* The Committee considered that the provision of Revenue Recovery Act shall not be applied for the collection of dues in respect of all Sthanam properties assumed and that this power may be resorted to only in such cases where the financial resources of the Sthanam are not sufficient to meet the Costs of litigation. The following condition has therefore been added to that clause—

> "if he is satisfied that the financial resources of the Sthauam are such that it may not be possible to meet the cost of regular litigation from out of the surplus funds available after meeting the obligatory expenditure connected with the administration of the Sthanam".

12. *Clause 15.* The Committee considered that the question of exercising control and supervision over Sthanam properties need be considered only when a complaint is received from one fifth of the adult members and heirs of the Sthanamdar or ten such persons whichever is less. The clause has been suitably modified.

13. *Clause 17.* The Committee considered that "permanent injunctions" may be deleted from this clause since the Committee was of the opinion that there need be no prohibition against the grant of permanent injunctions, hence the words "permanent or" have been deleted.

14. *Clause 20.* The Committee considered that the fine of Rs. 1,000 provided in this clause is excessive and it is enough if a fine of Rs. 100 is provided. Hence the fine has been reduced to Rs. 100 from Rs. 1,000.

15. The other changes made by the Committee are either verbal or consequential.

Trivandrum,
23rd October 1957.

V. R. KRISHNA IYER,
Chairman of the Select Committee.

STHANAM PROPERTIES (ASSUMPTION OF TEMPORARY MANAGEMENT AND CONTROL) AND HINDU SUCCESSION (AMENDMENT) BILL, 1957.

(As Reported by the Select Committee)

A

BILL

to provide for the assumption of management and control of sthanam properties for temporary periods and to amend the Hindu Succession Act.

Preamble.—WHEREAS it is expedient to provide for the purpose of assuming the management and control of sthanam properties in certain circumstances temporarily with a view to preserve and protect such properties and whereas it is necessary to include female sthanamdars also within the scope of the Hindu Succession Act, 1956.

BE it enacted in the Eighth Year of the Republic of India as follows:—

1. *Short title and commencement.*—This Act may be called the Sthanam Properties (Assumption of Temporary Management and Control) and Hindu Succession (Amendment) Act, 1957.

2. *Definition.*—In this Act unless the context otherwise requires,—

(a) "Collector" means the District Collector in whose jurisdiction the prinicipal seat of the sthanam is located.

(b) The expressions "sthanamdar" and "sthanam property" shall mean the "sthanamdar" and "sthanam property" to whom provisions of sub-section (3) of Section 7 of the Hindu Succession Act, 1956 apply and includes the sthanam properties referred to in Section 19 of the Mappilla Marumakkathayam Act, 1939.

(c) "prescribed" means prescribed by rules made under this Act.

3. *Devolution of property on the death of the Mappilla sthanamdar.*—Notwithstanding anything contained in the Mappilla Marumakkathayam Act, 1939 or in the Mappilla Succession Act, 1918 or notwithstanding any custom or usage to the contrary when a sthanamdar who is a member of a Mappilla Marumakkathayam family dies after the commencement of this Act, the sthanam property held by him or her shall devolve on the members of the family to which the sthanamdar belonged and the heirs of the sthanamdar as if the sthanam property had been divided *per capita* immediately before the death of the sthanamdar among himself or herself and all the members of his or her family then living, and the shares falling to the members of his or her family and heirs of the sthanamdar shall be held by them as their separate property.

Explanation.—For purposes of this sub-section, the family of sthanamdar shall include every branch of that family, whether divided or undivided the members of which would have been entitled by custom or usage to the position of sthanamdar if this Act had not been passed.

4. *Competency of Government to assume management in certain cases.*—Where consequent upon the death of a sthanamdar on or after the 17th June, 1956, the sthanam properties have devolved or are to devolve upon members of the family and heirs of the sthanamdar, the Government may, with a view to preserve and protect the properties till such time as the properties are divided among them, after holding an enquiry under Section 5 assume temporarily the management of the said sthanam properties, if an application is made in this behalf by not less than one fifth of the adult members and heirs or ten adult members thereof whichever is less.

5. *Government to assume management after enquiry.*—If, after considering the application and after such enquiry as the Government may deem fit to make the Government are satisfied that it is necessary or expedient so to do, they may, by notification in the Gazette assume the management of the sthanam properties for such period as may be specified not exceeding five years. The period specified in the notification may, by notification in the Gazette be extended or reduced by Government from time to time if circumstances so require.

6. *Collector entitled to assume and enter upon properties.*—On and with effect from the date of publication of the notification under Section 5 or with effect from such other date as may be specified in the notification, the management of the sthanam properties shall vest in the Government, and thereupon the Collector shall enter upon the properties and assume management on behalf of the Government.

7. *Collector to take possession.*—Subject to the provisions of any other laws in force for the time being where after the assumption of management of any sthanam property under Section 6, any person is in possession of any property, and the sthanamdar was entitled to be in possession of such property, such person shall be deemed to be holding it on behalf of the Collector and shall on demand surrender possession of it to the Collector or to any other person duly authorised by him in this behalf.

8. *Collector to use force when necessary.*—If any person in possession of any buildings or other movables belonging to the Sthanamdar refuses or fails on demand to surrender possession thereof to the Collector or to any person duly authorised by him in this behalf, the Collector may use or cause to be used such force as may be necessary for taking possession of such property or do any other act necessary for the said purpose and the person so refusing or failing shall be deemed to have committed an offence under Section 186 of the Indian Penal Code and shall be liable to be prosecuted therefor.

9. *Collector to do everything for the due administration.*—(1) Subject to the provisions of any rules that may be made in this behalf, the Collector may take such measures as he considers necessary or expedient for the purpose of securing, administering, possessing and managing any sthanam property and generally for the purpose of enabling him satisfactorily to discharge any of the duties imposed on him by or under this Act, and may, for any such purposes aforesaid, do all acts and incur all expenses necessary or incidental thereto.

(2) Without prejudice to the generality of the provisions contained in sub-section (1), the Collector may, for any of the purposes aforesaid,—

(a) appoint any officer who is not below the rank of a Revenue Divisional Officer or a person who is qualified to be appointed as a Munsiff as manager for the sthanam properties and authorise the manager to exercise the powers of the Collector under this section, subject to the approval of the Board of Revenue.

(b) enter, or authorise any other person to enter any land or premises to inspect any sthanam property;

(c) take all such measures as may be necessary to keep any sthanam property in good repair;

(d) complete any building which requires to be completed;

(e) require any person to furnish such returns, accounts or other information in relation to any property and to produce such documents in his possession as the Collector considers necessary for the discharge of his duties under this Act;

(f) search any building or place in which the Collector after such enquiry as he deems fit to make has reason to believe that any sthanam property is being kept or concealed, and take possession thereof;

(g) take such action as may be necessary for the recovery of any debt due to the sthanam;

(h) institute, defend or continue any legal proceeding in any civil or revenue court on behalf of the sthanam or refer any dispute to arbitration or compromise any claims, debts, or liabilities on behalf of the sthanam;

(i) raise on the security of the sthanam property such loans as may be necessary;

(j) incur any expenditure, including the payment of taxes, duties, cesses and rates to Government or to any local authority or for the discharge of any liabilities;

(k) make interim payments on a written request by a member or heir entitled to share of the sthanam property, at a rate not exceeding Rs. 100 per mensem and adjust such payments against the share of such member or heir; and

(l) invest money in any of the securities referred to in Section 20 of the Indian Trust Act, 1882.

10. *Collector to receive payment.*—(1) Any amount due to the sthanam or in respect of any transaction entered into by the deceased sthanamdar shall be paid to the Collector by the person liable to pay the same.

(2) Any payment made otherwise than in accordance with sub-section (1) shall not discharge the person paying it from his obligation to pay the amount due and shall not affect the right of the Collector to enforce such obligation against any such person.

11. *Accounts and registers.*—(1) The Collector shall maintain a separate account of each sthanam property the management of which has been assumed, and shall cause to be made therein entries of all receipts and expenditure in respect thereof.

(2) The accounts shall be maintained in such form and in such manner as may be prescribed.

(3) Government shall cause the accounts maintained under this section to be inspected and audited at such intervals and by such persons as may be prescribed.

12. *Collector to be impleaded.*—(1) In every suit, appeal application or other proceeding concerning sthanam properties, the management of which has been assumed by the Government under this Act, the Collector shall be named as the representative of the Government for the purpose of the suit, appeal application or other proceeding and in every pending suit, appeal application or other proceeding concerning the said sthanam properties, the court may, upon application by the Collector, order that the plaint memorandum of appeal or application be amended impleading the Collector as the representative of Government.

(2) Any legal proceedings taken on behalf of or against the sthanam before the assumption of management of the sthanam properties by Government under this Act, may be continued by or against the Government after such assumption of management.

(3) No suit shall be instituted against a sthanam, the management of which has been assumed by Government under this Act, until the expiration of two months after a notice in writing has been delivered or left at the office of the Collector stating the cause of action, the relief sought and the name and place of abode of the intending plaintiff, and the plaint shall contain a statement that such notice has been so delivered or left.

13. *Revenue Recovery Act to apply.*—The Collector may, during the period of management of a sthanam recover all arrears of rent and all demands recoverable as rent in respect of such sthanam and all interest due on such arrears or demands together with all the costs incurred for realising the same as

arrears of land revenue under the provisions of the Revenue Recovery Act for the time being in force. If he is satisfied that the financial resources of the Sthanam are such that it may not be possible to meet the cost of regular litigation from out of the surplus funds available after meeting the obligatory expenditure connected with the administration of the Sthanam.

14. *Withdrawal from management.*—The Government may, at any time, by notification in the Gazette withdraw from management of any sthanam property, the management of which has been assumed by the Government under the provisions of this Act, and if any difficulty arises in connection with the restoration of the properties to any persons entitled thereto, the Government may, by order authorise the doing of any matter or thing which appears to them necessary to facilitate such restoration.

15. *Control and supervision of management of certain sthanams.*—Where during the lifetime of a sthanamdar upon a complaint received from *one fifth of the adult members and heirs or ten adult members thereof whichever is less* entitled to a share of the sthanam properties that the sthanamdar is guilty of gross neglect, wilful mismanagement or waste of the sthanam properties or that his actions are prejudicial to the sthanam, the Government may, after such preliminary enquiry as they may deem fit to make, cause a detailed enquiry to be conducted in regard to the management of the affairs of the sthanam.

16. *Detailed enquiry.*—(1) The Government may, for the purpose of enquiry into the affairs of the sthanam depute any officer not below the rank of a Revenue Divisional Officer. The officer so deputed may examine the properties movable and immovable and the accounts, registers and other records of the sthanam and submit a full report to the Collector on the result of such enquiry and inspection. The sthanamdar, and all other employees and servants of the sthanam shall furnish to the officer so deputed all information he may call for and shall assist him in the examination of the list of properties, accounts and registers. On receipt of the report, the Collector shall submit the same to the Government.

(2) If on a consideration of the report and after issuing notice to the sthanamdar to show cause why the Collector should not be ordered to exercise supervision and control over the management by the sthanamdar of the sthanam properties and after giving a reasonable opportunity for the sthanamdar to be heard, the Government are satisfied that the sthanamdar was guilty of neglect, mismanagement or waste of sthanam property, and if the Government consider that in the interest of the sthanam it is necessary so to do, they may by notified order direct that the administration of the sthanam properties by the sthanamdar shall be carried on under the supervision and control of the Collector and subject to such restrictions and conditions and directions, as the Collector may from time to time think fit to impose or give.

17. *Courts not to grant injunctions.*—Notwithstanding anything contained in the Code of Civil Procedure, 1908 or in any other law for the time being in force, no court shall grant any temporary injunction or make any interim order restraining the Collector from exercising supervision and control over the administration of the sthanam properties.

18. *Appeal to High Court.*—Any person aggrieved by an order passed by the Government under Section 16 may appeal to the High Court within two months of the date of the order, and the High Court may pass such orders on appeal as it thinks just and proper.

19. *Collector entitled to call for accounts etc.*—In exercising the powers of supervision and control under section 16 the Collector may call for accounts, report, or other information relating to administration or management of the sthanam and the sthanamdar shall be bound to furnish such accounts, reports or other information within such time as the Collector may specify.

20. *Registers etc., to be kept in prescribed manner.*—(1) Every sthanamdar in respect of the sthanam the management of which is under supervision and control of the Collector, shall maintain registers in such manner as may be prescribed; containing the following particulars, namely:—

(a) particulars of all immovable properties belonging to the sthanam;

(b) particulars of all movable properties belonging to the sthanam with their estimated value and of all investments made by the sthanamdar;

(c) particulars of all liabilities; and

(d) such other particulars as the Collector may from time to time prescribe.

(2) As soon as may be after the issue of an order under section 16 and within such time as may be specified by the Collector, the sthanamdar shall furnish to the Collector a statement containing the particulars specified in sub-section (1) duly signed and verified by the sthanamdar.

(3) Any sthanamdar who fails to furnish the statement under sub-section (2) or knowingly furnished a statement which is false or incorrect in any material particular, shall be punishable with fine which may extend to *one hundred rupees*.

21. *Transactions without sanction of Collector void.*—On and after the date of the order issued by the Government under section 16, any sale, mortgage, exchange, pledge, lease or other alienation of property of a sthanam executed or made or any debt contracted on its behalf shall be void unless it is executed, made or contracted with the previous sanction of the Collector, provided that no such sanction shall be necessary if an alienation is made or a debt is contracted under orders of a competent Civil or Revenue Court.

22. *Expenditure charge on sthanam.*—Any expenditure incurred by the Collector in the exercise of any power conferred by or under this Act and all expenditure incurred in connection with the management, control and supervision of any sthanam shall, in relation to the sthanam in respect of which it has been incurred be a charge on such sthanam property and shall have priority over all other charges on the property, and such expenditure may be met or recouped by the Collector out of the income accruing from such property or otherwise at such rates as may be prescribed from time to time.

23. *Protection of officers.*—No suit or other legal proceeding shall lie against any officer or person in respect of anything which is in good faith done or intended to be done under this Act.

24. *Supervision, control and review.*—(1) All orders and proceedings of the Collector in exercise of his functions under this Act shall be subject to the supervision and control of the Board of Revenue.

(2) All orders and proceedings of the Board of Revenue under this Act shall be subject to the supervision and control of the Government.

(3) The supervising authority in each case may of its own motion review, and if it thinks fit revise, modify or reverse any order or proceeding.

25. *Power to make rules.*—(1) The Government may make rules for carrying into effect the provisions of the Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide,—

(a) the registers to be kept ;

(b) the various accounts to be maintained ;

(c) the expenditure that may be incurred ;

(d) the form and the manner in which the notices are to be sent ;

(e) for any other matter which has to be or may be prescribed ;

(f) the Government may by notification in the Gazette direct that any power conferred on them under this Act, except the powers under sections 4 and 5, shall in such circumstances and under such conditions, if any, as may be specified in the notification, may be exercisable also by an officer, not being below the rank of a Collector.

(3) All rules made under this section shall be published in the Gazette and shall, on such publication, have effect as if enacted in this Act.

26. *Bar of limitation.*—For the purpose of any suit, appeal, or application by or on behalf of a sthanam, the management of which has been assumed under this Act in computing the period of limitation for any of the aforesaid purposes the

period from the date of death of the sthanamdar up to and including a period of two months after the date on which the Collector assumed charge of the management of the sthanam shall be excluded.

27. *Amendment of Hindu succession Act, 1956.*—In Section 7 of the Hindu Succession Act, 1956 in its application to the State of Kerala,—

(a) In sub-section (3) between the words "him" and "shall" the words "or her", between the words "himself" and "and" the words "or herself" and between the words "his" and "family" in the two places where they occur the words "or her" shall be respectively inserted.

(b) In the explanation to sub-section 3) the word "male" shall be omitted.

V. KRISHNAMOORTHI,
Secretary,
Legislative Assembly.

THE MADRAS MARUMAKKATHAYAM (AMENDMENT) BILL, 1957

(*Report of the Select Committee.*)

The Select Committee to which the Madras Marumakkathayam (Amendment) Bill, 1957 was referred, have considered the Bill clause by clause and now submit this their Report with the Bill as amended by the Select Committee annexed hereto.

2. The Bill was published in the Gazette Extraordinary dated the 19th July 1957.

3. The Bill was introduced in the Legislative Assembly on the 24th August 1957 and the motion for reference to a Select Committee was adopted on the same day.

4. *Clause 3* (new).—The Committee consider that the Act should provide for the payment of maintenance, in cases where court passes a decree for dissolution of marriage and also for the payment of maintenance during the pendency of the proceedings relating to such dissolution. Accordingly they have added this new clause to the Bill which seeks to insert in the Act, three new sections as 10A, 10B and 10C on the lines of those contained in the Hindu Marriage Act, 1955.

Clause 5 (new).—Under section 32 of the Act, an obligation is cast upon the Karanavan to keep true and correct accounts of the income and expenditure of a Tarwad and the accounts shall be available for inspection at the Tarwad by major anandravans. The Committee consider that a provision may be made enabling the Munsiff having jurisdiction, on application by any major anandravan, to pass an order causing the accounts to be produced in court and allowing the anandravan to inspect or to take copies of, or extract from, such accounts. Accordingly, they have added a new sub-section to section 32 of the Act.

Clause 6 (new).—Section 33 of the Act provides that no sale or mortgage of any immovable property and no lease of any such property either for a premium returnable wholly or in part or for a period exceeding twelve years shall be valid unless it is executed by the Karanavan for consideration, for tarwad necessity or benefit and with the written consent of the majority of the major members of the tarwad. The Committee are of opinion that this provision should apply to all kinds of leases. Section 33 of the Act has been substituted for this purpose by the Committee.

Clause 7 (new).—Under Section 34 of the Act, no debt contracted or mortgage without possession executed by a Karanavan shall bind the tarwad unless the debt is contracted or

the mortgage is executed for tarwad necessity. It is considered by the Committee that the provision should apply to all debts contracted and other transactions not falling under Section 33. They also consider that the debt contracted or transaction entered into may be either for tarwad necessity or benefit. The clause substitutes Section 34 for these purposes.

Clause 8 (new).—The Committee consider that a provision may be made in the Act whereby the burden of proving tarwad necessity or benefit may be on the purchaser, mortgagee pledgee or other alienee or creditor, as the case may be. A new section is proposed to be added to achieve this object.

Clause 9 (*original clause 3*).—By way of clarification, the Committee has added an explanation as Explanation-3 making it clear that the provision shall apply to a tarwad notwithstanding the fact that immediately before the commencement of this amendment Act, the tarwad was included in the Schedule or that the tarwad had been registered as impartible. The Committee also consider that the provisions of the section should apply to all pending suits for partition and appeals and other proceedings therefrom. Accordingly they have added another Explanation to the clause as Explanation 4.

5. The other changes made by the Committee are only either verbal or consequential.

Trivandrum,
4th November 1957.

V. R. Krishna Iyer,
Chairman, Select Committee.

THE MADRAS MARUMAKKATHAYAM (AMENDMENT) BILL, 1957

(*As revised by the Select Committee*)

A

BILL

further to amend the Madras Marumakkathayam Act, 1932.

Preamble.—WHEREAS it is necessary and expedient further to amend the Madras Marumakkathayam Act, 1932 (Madras Act XXII of 1933), *in its application to the Malabar District referred to in sub-section (2) of Section 5 of the States Reorganisation Act, 1956*, for the purposes hereinafter appearing;

BE it enacted in the Eighth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Madras Marumakkathayam (Amendment) Act, 1957.

(2) It shall come into force on such date as the Government may, by notification in the Gazette, appoint.

2. *Amendment of Section 3.*—In Section 3 of the Madras Marumakkathayam Act, 1932, (Madras Act XXII of 1933) hereinafter referred to as the principal Act, Clause (b) shall be omitted.

3. *Insertion of Sections 10-A, 10-B and 10-C.*—After Section 10, of the principal Act, the following sections shall be inserted, namely:—

"10-A. *Maintenance Pendente Lite and Expenses of proceedings.*—Where in any proceeding under this Chapter it appears to the Court that either the wife or the husband, as the case may be, has no independent income sufficient for her or his support and the necessary expenses of the proceeding, it may, on the application of the wife or the husband, order the respondent to pay to the petitioner the expenses of the proceeding, and monthly during the proceeding such sum as, having regard to the petitioner's own income and the income of the respondent, it may seem to the Court to be reasonable.

10-B. *Permanent alimony and maintenance.*—(1) Any Court exercising jurisdiction under this Chapter may on application made to it for the purpose by either the wife or the husband, as the case may be, order that the respondent shall, while the applicant remains unmarried, pay to the applicant for her or his maintenance and support such gross sum or such monthly or periodical sum for a term not exceeding the life of

the applicant as, having regard to the respondent's own income and other property, if any, the income and other property of the applicant and the conduct of the parties, it may seem to the Court to be just, and any such payment may be secured, if necessary, by a charge on the immovable property of the respondent.

(2) If the Court is satisfied that there is a change in the circumstances of either party at any time after it has made an order under sub-section (1), it may, at the instance of either party, vary, modify or rescind any such order in such manner as the Court may deem just.

(3) If the Court is satisfied that the party in whose favour an order has been made under this section has re-married or has been leading a life of immorality it shall rescind the order.

10-C. *Enforcement of and appeal from orders.*—All orders made by the Court in any proceeding under Section 10-A or Section 10-B shall be enforced in like manner as a decree of the Court made in the exercise of the original civil jurisdiction is enforced, and may be appealed from under any law for the time being in force:

Provided that there shall be no appeal on the subject of costs only."

4. *Amendment of Section 14.*—In Section 14 of the principal Act, the second proviso shall be omitted.

5. *Amendment of Section 32.*—Section 32 of the principal Act shall be re-numbered as sub-section (1) of that section and after sub-section (1) as so re-numbered, the following shall be inserted as sub-section (2), namely:—

"(2) If the accounts are not made available for inspection as provided for in sub-section (1), the Munsiff's Court having jurisdiction over the place where the tarwad house is situated may, on application by any major anandravan, and after notice to the karnavan, pass an order causing the accounts to be produced in Court and allowing the anandravan to inspect, or to take copies of, or extracts from, such accounts. Such order of the Court shall be enforced in like manner as the orders of the Court made in the exercise of its original civil jurisdiction are enforced and may be appealed from under any law for the time being in force."

6. *Substitution of new Section for Section 33.*— For Section 33 of the principal Act, the following section shall be substituted, namely:—

"33. *Sales, mortgages and leases.*—(1) No sale or mortgage of any immovable property of a tarwad and no lease of any such property shall be valid, unless it is executed by the Karnavan for consideration, for tarwad necessity or benefit, and

with the written consent of the majority of the major members of the tarwad.

(2) Nothing contained in sub-section (1) shall be deemed to affect the validity of any mortgage or lease executed before the commencement of this Act in accordance with the law in force at the time of such execution."

7. *Substitution of new section for Section 34.*—For section 34 of the principal Act, the following section shall be substituted, namely:—

"34. *Debt contracted and transaction entered into by karnavan when binding on tarwad.*—No debt contracted or other transaction not falling under Section 33 entered into by a karnavan shall bind the tarwad unless the debt is contracted or the transaction is entered into for consideration and for tarwad necessity or benefit."

8. *Insertion of new Section 34A.*—After Section 34 of the principal Act, the following section shall be inserted, namely:—

"34A. *Burden of proving tarwad necessity.*—The burden of proving tarwad necessity or benefit shall be on the purchaser, mortgagee, pledgee, or other alienee, or creditor as the case may be. But the Court may presume such necessity where the majority of all the major members of the tarwad are parties to or have given their written consent to the transaction."

9. *Substitution of new Section for Section 38.*—For Section 38 of the principal Act, the following section shall be substituted, namely:—

"38. *Right of member of tarwad or tavazhi to claim partition.*—Any member of a tarwad or tavazhi may claim to take his or her share of all the properties of the tarwad or tavazhi over which the tarwad or tavazhi has power of disposal, and separate from the tarwad or tavazhi.

Explanation 1.—Nothing in this section shall be a bar for two or more members belonging to the same tarwad or tavazhi claiming their shares of the properties and enjoying the same jointly with all the incidents of tarwad property.

Explanation 2.—The member or members who claim partition under this section or *the member who claims or is compelled to take his or her share under* Section 39 shall be entitled to such share or shares of the tarwad or tavazhi properties as would fall to such member or members, if a division *per capita* were made among the members of the tarwad or tavazhi then living.

Explanation 3.—The provisions of this section shall apply to a tarwad notwithstanding the fact that immediately before

the commencement of the Madras Marumakkathayam (Amendment) Act, 1957, the tarwad was included in the schedule or that the tarwad had been registered as impartible.

Explanation 4.—The provisions of this section shall apply to all suits for partition, appeals and other proceedings arising therefrom pending in the Courts immediately before the commencement of the Madras Marumakkathayam (Amendment) Act, 1957, and such suits, appeals and other proceedings shall be disposed of in accordance with the provisions of this section as if this section were in force at the time of the institution of such suits, appeal or other proceeding."

10. *Substitution of new section for Section 39*.—For Section 39 of the principal Act, the following section shall be substituted, namely:—

"39. *Partition on change of religion*.—Any member of a tarwad or tavazhi who has changed his or her religion may claim or be compelled by any other member of the tarwad or tavazhi, to take his or her share of all the tarwad or tavazhi properties over which the tarwad or tavazhi has power of disposal and separate from the tarwad or tavazhi."

11. *Omission of Sections 40 and 41*.—Sections 40 and 41 of the principal Act shall be omitted.

12. *Omission of Chapter VII and the schedule*.—The headings "Chapter VII" and "Impartible Tarwads" occurring before Section 42, and Sections 42 to 47 of, and the Schedule to, the principal Act shall be omitted.

13. *Amendment of Section 49*.—In Section 49, sub-section (2), of the principal Act, clause (b), the brackets and letter "(a)" at the beginning and the word "and" at the end of clause (a) shall be omitted.

V. KRISHNAMOORTHI,
Secretary,
Legislative Assembly.

THE KERALA RE-ENACTING BILL

Report of the Select Committee

The Select Committee to which the Kerala Re-enacting Bill was referred, have considered the Bill and now submit this, their report.

2. The Bill was published in the Gazette Extraordinary dated the 24th July 1957.

3. The Bill was introduced in the Assembly on the 24th August 1957 and the motion for reference to a Select Committee was adopted on the same date.

4. The Committee consider that in view of the fact that the enactments mentioned in the Schedule to the Bill have been re-enacted along with certain other President's Acts by an Ordinance and since a Bill to replace that Ordinance will be introduced in the Legislative Assembly, it is not necessary to proceed with this Bill.

Trivandrum,
18th October 1957.

V. R. KRISHNA IYER,
Chairman of the Select Committee.

V. KRISHNAMOORTHI,
Secretary,
Legislative Assembly.

THE KERALA NAMBUDIRI BILL, 1957

Report of the Select Committee

1. The Select Committee to which the Kerala Namboodiri Bill was referred have considered the Bill clause by clause and submit this, their Report, with the Bill as reported by the Committee annexed thereto.

2. The Bill was published in the Gazette Extraordinary dated 24th August 1957.

3. The Bill was introduced in the Legislative Assembly on 27th August 1957 and the motion for reference to a Select Committee was adopted on the same day.

4. The Committee held three sittings. (two at Trivandrum and one at Kasaragod).

5. *Clause 2.*—The Committee consider that the scope of the definition of Nambhoodiri should be widened so as to take in "Unnis" and Sivolli, Haviek and other similar Brahmins known and recognised as Namboodiris, and who are not Marumakkattayees. The Committee also consider that Government should have the power to notify from time to time members of any other community who follow customs and manners similar to those of the Namboodiris, as Namboodiris for the purpose of the Act. Sub Clause (f) of this clause has been modified for this purpose.

6. *Clause 4.*—Clause 4 of the Bill imposes a duty on the Karanavan to keep true and correct accounts of the income and expenditure of the Illom and enables the major anandaravans to inspect the accounts. The Committee consider that there should be a provision to the effect that if the accounts are not made available for inspection, the Munsiff having jurisdiction over the place where the Illom is situate, should be empowered to make an order, on the application of any major anandaravan, that the accounts shall be produced in the court and the anandaravan allowed to inspect and take copies of the accounts. A new sub-clause has been added for this purpose.

7. *Clause 6* (new).—It is considered by the Committee that there should be a provision enabling the Karanavan to be in possession and management of the properties of the Illom and of the Devaswoms and other institutions over which the Illom has Uraima or such other right. For this purpose, a new clause has been added as clause 6.

8. *Clause 7* (original clause 6).—Clause 5 imposes certain restrictions on the sale, mortgage and leases of immovable property of an Illom, while this clause imposes restrictions

on the powers of the Karanavan to contract debts and mortgage property with possession. Clause 7 has been modified so that it may cover all transactions not covered by clause 5, and that it shall be necessary that such transactions have been entered into either for Illom necessity or benefit.

9. *Clause 12* (original clause 11).—The Committee are of the opinion that no restriction need be imposed on the female member of the Illom to marry a male belonging to her community. The Committee are also of opinion that the amount recoverable under sub-clause (1) of the clause should be 1|3 of the value of the share which would fall to the female member, instead of having it as the maximum amount. The Committee have effected necessary changes to this clause.

10. *Clause 13* (original clause 12).—The Committee consider that there is no necessity to provide that the husband and the wife should take their shares jointly and that they may claim their individual shares if they think so. Accordingly the proviso to sub-clause (1) of this clause has been omitted.

11. The other amendments effected by the Committee are only either verbal or consequential.

Trivandrum,
21st November, 1957.

V. R. Krishna Iyer,
Chairman of the Select Committee.

THE KERALA NAMBUDIRI BILL, 1957.

(As reported by the Select Committee)

A

BILL

to provide for the family management and partition of illom properties among Nambudiris.

Preamble.—WHEREAS it is expedient to provide for the family management and partition of illom properties among Nambudiris in the State of Kerala;

BE it enacted in the Eighth Year of the Republic of India as follows:—

1. *Short title, extent and commencement.*—(1) This Act may be called the Kerala Nambudiri Act, 1957.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force on such date as the Government may, by notification in the Gazette, appoint.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) "anandaravan" means any member of the illom other than the karanavan;

(b) "illom" means all the members of a Nambudiri joint family with community of property and includes a 'mana'.

Explanation.—A female shall on her marriage cease to be a member of the illom in which she was born and when she marries in her community become a member of the illom of her husband;

(c) "karanavan" means the oldest major male member of an illom in whom the right to management of its properties vests or in the absence of such male member, the senior major female member.

Explanation.—The seniority as between two or more females, who become members of the illom by marriage, shall be determined according to the dates of their marriages;

(d) "major" means a person who has attained eighteen years of age;

(e) "minor" means a person who has not attained eighteen years of age;

(f) "Nambudiri" means a member of the Nambudiri Brahmin community and includes—

(i) the members of the following communities, namely, Pottis, Adigals, Elayads, Moosads, Pitarans, Nambiars, Nambissans, Unnis and Embrandiris (including Sivolli, Haviek

and other similar Brahmins known and recognised as Nambudiris) who follow customs, manners and usages similar to those of the Nambudiris and who are not marumakkattayees; and

(ii) members of such other communities who follow customs, manners and usages similar to those of the Nambudiris and who are not marumakkattayees, as may be notified by the Government from time to time in the Gazette.

3. *Proprietary right of members in illom properties.*—(1) Every member of an illom, whether male or female, shall have an equal proprietary interest in its properties.

(2) Such proprietary interest shall not in any manner be impaired or affected by reason of the deviation of such member from any orthodox custom or usage.

4. *Duty of karanavan to keep accounts.*—(1) The karanavan shall keep true and correct accounts of the income and expenditure of the illom. The accounts of each year shall be available for inspection at the illom house by the major anandaravans once in a year throughout the month of February following such year and any such anandaravan may take copies of or extracts from such accounts.

(2) If the accounts are not made available for inspection as provided for in sub-section (1) the Court of a Munsiff having jurisdiction over the place where the illom is situated may, on application by any major anadaravan, and after notice to the Karanavan, pass an order causing the accounts to be produced in Court and allowing the anandaravan to inspect or to take copies of, or extracts from, such accounts. The order passed by the Munsiff shall be executable as a decree passed by the Court.

5. *Sales, mortgages and leases.*—(1) No sale or mortgage of any immovable property of an illom and no lease of any such property shall be valid, unless it is executed by the karanavan for consideration, for illom necessity or benefit, and with the written consent of the majority of the major members of the illom.

(2) Nothing contained in sub-section (1) shall be deemed to affect the validity of any sale mortgage or lease executed before the commencement of this Act in accordance with the law in force at the time of such execution.

6. *Powers of the Karanavan.*—Subject to the other provisions of this Act and subject to any arrangement that may be entered into between the major members of the illom or any order of a Court of competent jurisdiction, the Karanavan has the right to be in possession and management of the properties of the illom and of the Devaswoms and other institutions over which the illom has Uraima or such other right.

7. *Debt contracted or transaction entered into by Karanavan when binding on illom.*—It shall be lawful for the Karanavan to contract, or enter into, debts or transactions other than those falling under section 5, without the written consent of the majority of the members of the illom:

Provided that the debts or transactions so contracted or entered into are for illom necessity or benefit.

8. *Burden of proving illom necessity.*—The burden of proving illom necessity or benefit shall be on the purchaser, mortgagee, pledgee, or other alienee, or creditor, as the case may be. But the court may presume such necessity where the majority of all the major members of the illom are parties to or have given their written consent to the transaction.

9. *Maintenance of members of illom.*—(1) Every member of an illom, whether living in the illom house or not, shall be entitled to maintenance consistent with the income and the circumstances of the illom.

(2) *Right to separate allotment of properties.*—Any member of an illom shall be entitled to get a separate allotment of properties of the illom for his or her maintenance, as the case may be, provided there is just and sufficient cause for such allotment.

10. *Relinquishment of karanavanship.*—Any karanavan may by a registered document give up his rights as karanavan.

11. *Receiver to be appointed when illom consists of minors only.*—Where an illom consists only of minor members, the principal civil court of original jurisdiction within the local limits of which it is situated may, on the application of any one interested in it, appoint on such terms as the court deems fit a receiver to manage its affairs till any one of the minor members attains majority.

12. *Right of major Nambudiri female to have her marriage performed and recover the marriage expenses and dowry.*—(1) Any unmarried major female member of an illom who marries, or has her marriage * * * * * * * performed with her consent by her father or any other member of her illom, shall be entitled to recover from the illom properties, the reasonable expenses of such marriage as well as her marriage settlement:

Provided that not less than three months' previous notice in writing of the marriage shall be given to the karanavan.

(2) The amount recoverable under sub-section (1) shall be one-third of the value of the share which would fall to such female member if a division *per capita* of the properties of the illom were made among all the members thereof living on the date of the marriage: * * *

Provided that where an illom consists of females only, the amount recoverable under this sub-section may extend to the full value of her share.

13. *Right of member to claim partition.*—(1) Any member of an illom, male or female, may claim to take his or her share of all the properties of the illom over which it has power of disposal and separate from the illom:

* * * * * * * *

(2) A member of an illom separating from it under sub-section (1) shall be entitled to such share of the illom properties as would fall to him or her if a division *per capita* were made among all the members of the illom then living.

* * * * * * * *

(3) No claim to separate from an illom made on behalf of a minor member shall be allowed by any court unless it is satisfied that such separation would be to the benefit of such minor.

14. *Partition on change of religion.*—(1) Any member of an illom who has changed his or her religion may claim, or be compelled by any other member of the illom, to take his or her share of the illom properties and separate from the illom.

(2) The member who claims or is compelled to divide from the illom under sub-section (1) shall be entitled to such share of the illom properties as would fall to him or her if a division *per capita* were made among all the members of the illom then living.

15. *Character of property taken on partition.*—The share obtained by any member separating from an illom under sub-section (1) of section 13 or under section 14 shall be the separate property of such member:

* * * * * * * *

16. *Repeal.*—The Travancore Malayala Brahmins Act of 1106 (III of 1106), the Cochin Nambudiri Act, XVII of 1114 and the Madras Nambudiri Act, 1932 (XXI of 1933) as in force in the Malabar District referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956 (Central Act 37 of 1956), are hereby repealed.

V. KRISHNAMOORTHI,
Secretary,
Legislative Assembly.